

1 ADAM PAUL LAXALT
Attorney General
2 JOSHUA HALEN, Bar No. 13885
Deputy Attorney General
3 State of Nevada
Bureau of Litigation
4 Public Safety Division
100 N. Carson Street
5 Carson City, Nevada 89701-4717
Tel: (775) 684-1209
6 E-mail: jhalen@ag.nv.gov

7 *Attorneys for Defendants Quentin Byrne,*
Starlin Gentry, Maribelle Henry, Ricky Hughes,
8 *Michael LeGasse, William Sandie, Brandon*
Silva, and Kirk Widmar
9

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 WILLIE ROY LEWIS,
13 Plaintiff,

14 vs.

15 MICHAEL LEGASSE C/O, RICKY HUGHES
SC/O, KIRK WIDMAR LT., BRANDON
16 SILVA SC/O, STARLIN GENTRY SGT.,
QUENTIN BYRNE W., MARIBELLE HENRY
17 FSM., WILLIAM SANDIE-WARDEN

18 Defendants.

Case No. 3:17-cv-00191-MMD-WGC

**ORDER GRANTING
DEFENDANTS' MOTION FOR EXTENSION OF
TIME TO FILE RESPONSIVE PLEADING TO
PLAINTIFF'S COMPLAINT**

19 Defendants, Michael Legasse C/O, Ricky Hughes SC/O, Kirk Widmar Lt., Brandon Silva SC/O,
20 Starlin Gentry Sgt., Quentin Byrne W., Maribelle Henry FSM, and William Sandie-Warden, by and
21 through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Joshua M. Halen,
22 Deputy Attorney General, move for an Extension of Time to file a Responsive Pleading to Plaintiff's
23 Complaint. This Motion is based on the following Memorandum of Points and Authorities, the papers
24 and pleadings on file, and any other information the Court chooses to consider.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. LAW & ARGUMENT**

27 This is an inmate civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff Willie Lewis
28 (Plaintiff) is an inmate in the custody of the Nevada Department of Corrections (NDOC). On April 8,

1 2018, the Court entered its Screening Order and permitted Plaintiff to proceed on several Counts. (ECF
2 No. 8.) On July 31, 2018, the Parties engaged in the Court's Inmate Early Mediation Conference. The
3 Parties were unable to come to a resolution of this case at the Mediation Conference. (ECF No. 12.) On
4 August 7, 2018, the Court entered its Order, removing this case from the ninety day stay and setting
5 deadlines for the Nevada Attorney General's Office to accept service on behalf of defendants and to
6 provide the last known addresses for defendants it is not accepting service on behalf of. (ECF No. 14.)

7 The Nevada Attorney General's Office accepted service on behalf of Defendants Starlin Gentry,
8 Maribelle Henry, Ricky Hughes, Michael Legasse, William Sandie, and Kirk Widmar. (ECF No. 15.)
9 Accordingly, a responsive pleadings was due on behalf of Defendants Starlin Gentry, Maribelle Henry,
10 Ricky Hughes, Michael Legasse, William Sandie, and Kirk Widmar on or before Monday, October 8,
11 2018. (ECF No. 14.) Service was not accepted on behalf of Defendant Quentin Byrne. (ECF No. 15.)
12 On September 20, 2018, Defendant Byrne was served with the Summons and a copy of the Complaint.
13 (ECF No. 20.) A responsive pleading for Defendant Byrne is due on before Thursday, October 11,
14 2018. Fed. R. Civ. P. 12(a)(1)(A)(i).

15 Since the Mediation Conference, Plaintiff and Defendants' counsel and representatives have
16 engaged in settlement discussions in an attempt to resolve the issues presented in this case and other
17 issues concerning Plaintiff. On October 1, 2018, Plaintiff and Defendants' counsel engaged in a
18 telephonic conference and reached a settlement agreement. The parties agreed to the terms of the
19 settlement agreement and the parties are completing the necessary paperwork to obtain signatures on
20 the necessary documents and to file the Stipulation and Order of Dismissal with Prejudice with the
21 Court. Based on the fact that the parties have reached a settlement of this action resulting in the case
22 being dismissed, Defendants request that the Court extend the deadline for all Defendants to file a
23 responsive pleading to Plaintiff's Complaint.

24 Federal Rule of Civil Procedure 6(b)(1) governs enlargements of time and provides as follows:

25 When an act may or must be done within a specified time, the court may,
26 for good cause, extend the time: (A) with or without motion or notice if
27 the court acts, or if a request is made, before the original time or its
28 extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

1 The proper procedure, when additional time for any purpose is needed, is to present a request for
2 extension of time before the time fixed has expired. *Canup v. Miss. Val. Barge Line Co.*, 31 F.R.D. 282
3 (W.D. Pa. 1962). Extensions of time may always be asked for, and usually are granted on a showing of
4 good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D.
5 Ohio 1947).

6 Defendants seek an enlargement of time to file a responsive pleading to Plaintiff's Complaint.
7 Good cause exists to extend the time to file this motion. The extension of time is needed to finalize the
8 necessary documents for the parties' settlement agreement and to file the Stipulation and Order for
9 Dismissal with the Court and to obtain the Court's signature on the proposed order. The parties reached a
10 settlement agreement to dismiss this case on October 1, 2018, and the parties are currently finalizing the
11 necessary documents by obtaining the needed signatures. It appears as if the parties will be unable to
12 submit the Stipulation and Order for Dismissal with Prejudice to the Court before October 8, 2018. This
13 short extension of time is requested in order to allow the parties to complete the necessary settlement
14 documents and provide those documents to the Court without the need to file a responsive pleading when
15 the parties have agreed to dismiss this case. The extension is further requested in order to excuse the parties
16 from the burden and costs of litigation while providing the Court with sufficient time to review the
17 Stipulation and Order for Dismissal with Prejudice. This request is made in good faith and is not for the
18 purposes of delay. Defendants request an extension of thirty days to file a responsive pleading to Plaintiff's
19 Complaint.

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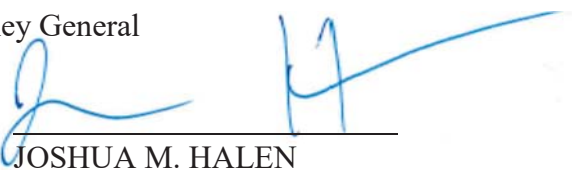
1 **II. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request this motion for enlargement of time be
3 granted and the deadline for filing a responsive pleading be extended thirty (30) days, up to and including
4 Wednesday November 7, 2018.

5 DATED this 8th day of October, 2018.

6 ADAM PAUL LAXALT
7 Attorney General

8 By:

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10 JOSHUA M. HALEN
11 Deputy Attorney General
12 State of Nevada
13 Bureau of Litigation
14 Public Safety Division

Attorneys for Defendants

15 **IT IS SO ORDERED.**

16 DATED: October 9, 2018.

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19 UNITED STATES MAGISTRATE JUDGE